

State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda

Government Code § 11126 (a), (c)(3), (e) and (f)

for

Thursday, December 15, 2022

9:30 a.m.

Held on Zoom

To: Members of the California Occupational Safety & Health Appeal Board

From: J. Jeffrey Mojcher, Chief Counsel

Date: December 2, 2022

RE: Closed Session of the Board to be held on December 15, 2022

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

Decisions Of Administrative Law Judges:

(Written decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The Board Members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

There are no Decisions for review.

Petitions For Reconsideration:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1203336 Three-D Services Co. Inc.

Orders Dismissing Appeal:

There are no Orders Dismissing Appeal for review.

Orders Denying Leave To File Late Appeal:

1565022 Victorio Mufflers, Inc.

Matters Pending Reconsideration:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters, or amends the Order or Decision being reconsidered.)

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

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| 1314092 | 99 Cents Only Store, LLC
Whether the employer committed a foot protection violation as alleged. |
| 1360156 | CA Forestry and Fire Protection
<i>Whether it was an error to assign a particular ALJ to the matter.</i> |
| 1564732 | Calvary Chapel of San Jose dba Calvary Chapel Academy
<i>Whether the ALJ correctly excluded evidence from the inspection.</i> |
| 1262720 | General Dynamics NASSCO
<i>Whether the employer followed proper procedures in rigging a load.</i> |
| 1300984 | General Dynamics NASSCO
<i>Whether Employer committed the violations alleged.</i> |
| 1436480 | Interline Brands, Inc.
<i>Whether the employer violated foot protection standards.</i> |
| 1004280 | Key Energy Services, LLC
<i>Matter remanded to the Board from the Court.</i> |
| 1340591 | Lennar Corporation
<i>Whether Employer committed the violations alleged.</i> |
| 313381584 | Modern Pro Builder
<i>Whether the ALJ's granting of a late appeal was appropriate under the circumstances.</i> |
| 1465354 | Natural Alternatives International, Inc.
<i>Whether the ALJ erred in dismissing the matter.</i> |

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted December 2, 2022

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| 1336276 | Rios Farming Company, LLC
<i>Whether the ALJ's decision was correct.</i> |
| 1291481 | Sierra Pacific Forest Products
<i>Whether Employer was in compliance with the cited safety order.</i> |
| 1303461 | SSA Terminals (Oakland), LLC dba SSA Marine Terminals
<i>Whether Employer violated section 3212(a)(2)(A) as alleged.</i> |
| 1573605 | XL Concrete Masonry, LLC
<i>Whether the employer's appeal was timely.</i> |

Matters Pending Litigation:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

Superior Court:

1. Barnard Impregilo Healy, JV, CPF 17-515575 (317134021)
2. Ashley Furniture Industries, 34-2017-800002750 (1016514)
3. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
4. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
5. Davis Development Company, 34-2020-80003373 (1226084)
6. Southern California Edison, 34-2021-80003580 (1320327)
7. RND Contractors, Inc., CIV SB 2119442 (1436785)
8. Hill Crane Service Inc., 34-2021-80003744 (1135350)
9. Sierra Forest Products, VCU290996 (1291481)
10. USA Waste of California, Inc., 34-2022-80003841 (1384029)
11. Ranch of the Golden Hawk, 22STCP02302 (1224802)
12. Guy F. Atkinson Construction, LLC. 22STCP03019 (1332867)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. Golden State FC, LLC, STK-CV-UWM-2021-004380 (1310525)
3. L & S Framing, Inc. S-CV-0046603 (1173183)
4. Granite Construction Company, 34-2021-80003634 (1235643)
5. MWL Solutions, C097353, 34-2020-80003549 (1436014)

Other Items:

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.
4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.

Orders Of Administrative Law Judges:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1466971	Albertsons Companies Inc.
1532567	Ameri-Kleen
1487101	American Medical Response West
1553404	Amswede Corporation
1474528	Andrew M. Jordan, Inc.
1573271	Asap Distribution, Inc.
1556075	AT&T Communications America & AIO Wireless, LLC
1563352	Brinker International
1516818	BYD Coach and Bus, LLC
1589480	Cameiro Heifer Ranch
1555960	City of Chino Hills
1494600	City of San Diego - Environmental Services
1607730	Crothall Laundry Services
1221729	Dewey Pest Control

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted December 2, 2022

1462752	Discovery Hydrovac, LLC
1532631	Five Crowns, Inc.
1543320	George C. Hopkins Construction Co., Inc.
1576124	Gill Transport, LLC
1530052	Glenbrook HC, LLC
1513325	Henkels & McCoy Inc.
1612531	Holiday Inn Express & Suites Redding
1560517	Individuals Steve Chankra; Avtar Sing Sian; DNA
1594905	J.R.C Group, Inc.
1564536	Lakeside Golf Club
1578049	Lamonicas Pizza Dough Company, Inc.
1335212	Leonard Roofing, Inc.
1588892	Mclane Foodservice Distribution Inc.
1435029	Mountain F Enterprises, Inc.
1580348	Muehlan Certified Coatings, Inc.
1522263	Nevell-Standard JV, LLC
1506744	Norcal Painters Incorporated
1552990	Oak Knoll Farming Corporation
1610171	Orora Packaging Solutions
1545271	Partners Personnel - Management Services, LLC
1600331	Peters Drilling and Pump Service, Inc.
1593612	Phibro-Tech, Inc.
1603134	Posh Bakery
1487768	Prime Healthcare Services-Sherman Oaks, LLC
1459374	Raylyn Farms, Inc.
1587673	Ross Dress For Less, Inc. #122
1560015	Safeway Stores 28, Inc.
1558806	Safeway, Inc.
1560541	Safeway, Inc.
1524789	Sheehan Construction
1609934	Singing Tree Gardens
1506240	Smithfield Foods, Inc. / Smithfield Distribution, LLC
1574035	Solstice Senior Living, LLC
1596968	State of California Department of Transportation
1592775	Sun Pacific Shippers, L.P.
1556511	Thomas Benzler dba Benzler Farms
1605980	Tree Max, Inc.
1603129	Trulite Glass & Aluminum Solutions
1622732	Uniblue Corporation
1606844	Valley Guard Pest Control, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted December 2, 2022

1491830	Valley Village
1476072	Windsor Vallejo Care Center, LLC
1578106	Wm Bolthouse Farms, Inc.
1566460	Yutsi M. Garcia and Jaime A. Garcia Ibarra
1615302	Zachary Chase

Personnel:

(Issues regarding staff.)

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